

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CHARLES VINCENT REED,  
Plaintiff,

v.

SARAH KARIKO et al.,  
Defendants.

CASE NO. 3:20-CV-05580-BHS-DWC  
ORDER

The District Court has referred this action, filed pursuant to 42 U.S.C. §1983, to United States Magistrate Judge David W. Christel. Plaintiff, proceeding *pro se* and *in forma pauperis*, filed this civil rights Complaint pursuant to 42 U.S.C. § 1983.

Plaintiff currently has two actions pending before this Court: *Reed v. Hammond, et al.*, Case No. 3:16-cv-5993-BHS-DWC (“*Reed I*”) and the instant case, *Reed v. Koriko, et al.*, Case No. 3:20-cv-5580-BHS-DWC (“*Reed II*”).

Plaintiff has filed a Motion titled “Motion to Reassign Case and Join Claims Under [*Reed I*]”. Dkt. 10 (“Motion”). Defendants filed a Response. Dkt. 20. Plaintiff filed a Reply. Dkt. 22.

1 The Motion is denied as Plaintiff's request to reassign this case is now moot, and the two cases  
2 involve different facts and allegations.

3 **1. Reassignment**

4 Plaintiff moves, in part, for the Court to reassign this case, *Reed II*, because it is related to  
5 a previously filed case, *Reed I*. Dkt. 10. On September 15, 2020, the Court entered a minute  
6 order reassigning this case from the Honorable Marsha J. Pechman to the Honorable Benjamin  
7 H. Settle as was related to *Reed I*. Dkt. 11 at 1. Therefore, Plaintiff's request to reassign this case  
8 is denied as moot.

9 **2. Consolidation**

10 In addition to seeking reassignment of *Reed I* and *Reed II*, Plaintiff moves for the Court  
11 to consolidate the two cases. Dkt. 10.

12 "If actions before the court involve a common question of law or fact, the court may: (1)  
13 join for hearing or trial any or all matters at issue in the actions; (2) consolidate the actions; or  
14 (3) issue any other orders to avoid unnecessary cost or delay." Fed. R. Civ. P. 42(a). Under Rule  
15 42, the Court has "broad discretion" to consolidate cases pending in the same district either upon  
16 motion by a party or *sua sponte*. *In re Adams Apple, Inc.* 829 F.2d 1484, 1487 (9th Cir. 1987).  
17 In exercising this discretion, the Court "weighs the saving of time and effort consolidation would  
18 produce against any inconvenience, delay, or expense that it would cause." *Huene v. United*  
19 *States*, 743 F.2d 703, 704 (9th Cir. 1984).

20 Here, both *Reed I* and *Reed II* are filed pursuant to 42 U.S.C. § 1983 and allege violations  
21 of Plaintiff's civil rights pursuant to the Eighth Amendment. *See Reed I* and *Reed II*. However,  
22 *Reed I* was filed nearly four years ago in December 2016, and Plaintiff has been appointed *pro*  
23 *bono* counsel. *See Reed I* at Dkt. 1, 63 (order appointing counsel). Discovery was completed on  
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1 October 30, 2020, and the *Reed I* Defendants have filed a Third Motion for Summary Judgment  
2 which seeks dismissal of all remaining claims. Dkt. 160. The remaining claims in *Reed I* are  
3 based on Plaintiff's allegations Defendants failed to timely treat his Hepatitis C infection. *Reed I*  
4 at Dkt. 96 at 10-13; Dkt. 160.

5 In June 2020, Plaintiff filed *Reed II*. *Reed II* at Dkt. 1. Plaintiff has not requested counsel,  
6 nor has he been appointed *pro bono* counsel. A scheduling order has not yet been entered and  
7 discovery has not yet commenced. In *Reed II*, Plaintiff alleges Defendants failed to evaluate and  
8 treat extra-hepatic manifestations;<sup>1</sup> failed to continue treatment of other unrelated medical  
9 conditions; and failed to properly make, maintain, or organize medical records. *Reed II* at Dkt. 5  
10 at 2-25.

11 Based on the Court's examination of these two actions, Plaintiff's Motion (Dkt. 10) is  
12 denied. While the two cases require application of similar laws such as the Eighth Amendment,  
13 they do not involve the same set of facts or the same parties. The specific factual questions are  
14 not common between *Reed I* and *Reed II*. For example, whether the *Reed I* Defendants failed to  
15 timely treat Plaintiff's Hepatitis C infection is not related to whether the *Reed II* Defendants  
16 failed to evaluate and treat extra-hepatic manifestations; failed to treat other unrelated medical  
17 conditions; or failed to make, maintain or organize Plaintiff's medical records.

18 Moreover, *Reed I* is at a significantly different procedural posture. Consolidation of the  
19 cases would cause prejudice since a scheduling order regulating discovery and further  
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24 <sup>1</sup> Plaintiff alleges he has been diagnosed with polycythemia, hyperglycemia, and cryoglobulinemia. Dkt. 5  
at 4, 7, 8.

1 proceedings has already issued in *Reed I* and Defendants' Third Motion for Summary Judgment  
2 is pending.<sup>2</sup>

3 Plaintiff has failed to demonstrate *Reed I* and *Reed II* include common questions of fact  
4 or any economy or convenience would be achieved through consolidation. Accordingly,  
5 Plaintiff's Motion (Dkt. 10) is denied.

6 Dated this 18th day of November, 2020.

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9 David W. Christel  
United States Magistrate Judge

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24 <sup>2</sup> The *Reed I* Defendants' Third Motion for Summary Judgment is ready for the Court's review December 6, 2020. *Reed I* at Dkt. 160.